

CV 14

6804

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
VICKY WASHINGTON,

Plaintiff,

v.

LUTHERAN MEDICAL CENTER; NEW YORK  
METHODIST HOSPITAL; LUTHERAN FAMILY  
HEALTH CENTERS; DONALD MORRISH, M.D.;  
AND JOHN DOE AND/OR MARY ROE #1-12,

Defendants.  
----- X

**NOTICE OF REMOVAL**

Civil Action No.

CV 14-\_\_\_\_\_

FILED  
CLERK

2014 NOV 19 PM 2:20

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that an action pending in the Supreme Court of the State of New York, County of Kings, has been removed to the United States District Court for the Eastern District of New York.

LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, by Dara A. Olds, Assistant United States Attorney, respectfully states the following facts upon information and belief:

1. On or about April 8, 2014, the above-captioned action was commenced in the Supreme Court of the State of New York, County of Kings, under Index No. 5315/14, naming as defendants Lutheran Medical Center, New York Methodist Hospital, Lutheran Family Health Centers, Donald Parrish, M.D., and John Doe and/or Mary Roe #1-12. See Verified Complaint, annexed hereto as Exhibit A.

2. This is an action alleging medical malpractice on the part of the

defendants. Specifically the complaint alleges that on or about September 23, 2013 defendants negligently performed a hysterectomy on the plaintiff and that from October 5, 2011 up to and including October 13, 2013, defendants provided inadequate follow-up care. *See* Exhibit A, Compl. ¶¶ 7, 16, 18, 19. The complaint further alleges that the plaintiff suffered personal injuries as a result of the alleged malpractice.

3. As set forth in the Declaration of Meredith Torres, an attorney with the Office of the General Counsel of the United States Department of Health and Human Services (“HHS”), annexed hereto as Exhibit B, the Sunset Park Health Council, Inc., formerly known as Lutheran Family Health Centers (“Health Centers”) operates as a grantee of HHS, and as such has been deemed to be an “employee of the United States” for purposes of medical malpractice coverage, pursuant to the Public Health Service Act (“PHS Act”), as amended by the Federally Supported Health Centers Assistance Act, 42 U.S.C. §§ 233(g)-(n) (“FSHCAA” or “Act”). As a result, Sunset Park and its predecessors, Health Centers, and their employees are covered by the Federal Tort Claims Act (“FCTA”), 28 U.S.C. §§ 1346(b), 2401(b), 2671-2680, and entitled to all the protections thereof. Defendant Donald Morrish, M.D., was an employee of Health Centers at all times relevant to this action, and, pursuant to 42 U.S.C. §§ 233(g)-(n), is also covered by the FTCA.

4. In accordance with 28 U.S.C. § 1446(a), a copy of the pleadings served upon defendant Donald Morrish, M.D., including the summons and verified complaint, are annexed hereto as Exhibit A.

5. Pursuant to 28 U.S.C. § 2679(d)(2), and 42 U.S.C. § 233(c), this action may be removed to this Court.

6. Under 28 U.S.C. §§ 2408 and 2679(d)(2), and 42 U.S.C. § 233(c), the United States may remove this action without a bond.

7. Pursuant to 28 U.S.C. § 2679(d)(2) and 42 U.S.C. § 233(a), (c), (g), this action must be discontinued as to Defendant Donald Morrish because the United States, by operation of law, has been automatically substituted in his place as defendant, pursuant to the accompanying Certification of Scope of Employment and Notice of Substitution of United States as a Party Defendant for Donald Morrish, which establishes that Defendant Morrish was acting within the course and scope of his federal employment at the time of the incident from which the claim arose. The certification of Assistant United States Attorney Dara A. Olds is annexed hereto as Exhibit C.


WHEREFORE, respectfully, the above-captioned action previously pending in the Supreme Court of the State of New York, County of Kings, is removed to this Court; and

In accordance with 28 U.S.C. § 1446(d), the filing of a copy of this notice with the Clerk of the Supreme Court of the State of New York, County of Kings, shall give that court notice of the removal, and the Supreme Court of the State of New York shall proceed no further with respect to the action, unless and until the case is remanded thereto.

Dated: Brooklyn, New York  
November 19, 2014

Respectfully submitted,

LORETTA E. LYNCH  
United States Attorney  
Eastern District of New York  
Attorney for Defendant United States of America  
271 Cadman Plaza East  
Brooklyn, New York 11201

By:   
Dara A. Olds  
Assistant United States Attorney  
(718) 254-6148

TO: Clerk of Court  
Supreme Court of the State of New York  
County of Kings  
360 Adams Street  
Brooklyn, NY 11201

THE BEHRENS LAW FIRM  
1110 South Avenue, Suite 402  
Staten Island, New York 10314  
*Attorneys for Plaintiffs*

Amy C. Lombardo, Esq., CHC  
DOPF, P.C.  
440 Ninth Avenue, 16<sup>th</sup> Floor  
New York, NY 10001

**EXHIBIT A**

**The Behrins Law Firm PLLC  
1110 South Avenue (Suite 402)  
Staten Island, New York 10314**

COUNTY OF KINGS

Index # 5315/2014

-----X  
VICKY WASHINGTON,

Date  
Purchased: 4-8-14

Plaintiff,

Plaintiff designates Kings County as  
the place of trial.

- against -

The basis of the venue is residence  
and place of occurrence.

LUTHERAN MEDICAL CENTER;  
NEW YORK METHODIST HOSPITAL;  
LUTHERAN FAMILY HEALTH CENTERS;  
DONALD MORRISH, M.D.; AND  
JOHN DOE AND/OR MARY ROE #1-12,

Plaintiff resides at:  
56 North Oxford Walk  
Brooklyn, New York 11205

Defendants.  
-----X

County of Kings

**SUMMONS WITH NOTICE**

*To the above named defendants*

**YOU ARE HEREBY SUMMONED** to serve a notice of appearance on the plaintiff's attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear, judgment will be taken against you by default for the relief demanded in the notice set forth below.

**TO RECOVER MONEY DAMAGES** against the defendants in amounts to be determined at trial, but which exceed the jurisdictional limits of all lower Courts which might otherwise have jurisdiction, by reason of the negligence and/or medical malpractice of one or more of the above named defendants.

Dated: Staten Island, New York  
April 7, 2014

THE BEHRINS LAW FIRM PLLC  
Attorneys for Plaintiff  
Office & P.O. Address  
1110 South Avenue (Suite 402)  
Staten Island, New York 10314  
(718) 447-5540

Defendants' addresses:

150 55<sup>th</sup> Street  
Brooklyn, New York 11220

☒ SUPREME ☐ CIVIL ☐ FAMILY ☐ SURROGATES COURT

CITY / STATE OF NEW YORK - COUNTY OF RICHMOND KINGS

VICKY WASHINGTON

Plaintiff(s)

Index No.

5315/2014

AFFIDAVIT  
OF SERVICE

against

Defendant(s)

LUTHERAN MEDICAL CENTER; NEW YORK METHODIST HOSPITAL,  
LUTHERAN FAMILY HEALTH CENTERS; DONALD MORRISH, M.D., AND  
JOHN DOE AND/OR MARY ROE #1 - 12

State of New York, County of Richmond ss.:

Arthur J. Cappabianca being duly sworn, deposes and says: that deponent is not a party to this action, 18 years of age and resides at P.O. Box 20-471 Staten Island, N.Y. 10302

That on April 17, 2014 at 1:20P.M.,  
327 Beach 19th Street, Far Rockaway, New York, 11691, St. John's Episcopal  
at Hospital

deponent served the  
defendant therein

within Summons with Notice  
named, Donald Morrish, M.D.

INDIVIDUAL

1. ☐

By delivering a true copy of each to said defendants personally; deponent knew the person so served to be the person described as said defendant therein.

CORPORATION

2. ☐

Corporation, by delivering thereto a true copy of each to personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be. Thereof authorized to accept papers

SUITABLE AGE  
PERSON

3. ☒

by delivering thereto a true copy of each to Niken Crip age and discretion. Said premises is defendants actual place of business

a person of suitable  
within the state.

AFFIXING TO  
DOOR, ETC.

4. ☐

By affixing a true copy of each to the door of said premises, which is dependent's CHOOSE ONE within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and digression, thereto, having called their.

on \_\_\_\_\_ at \_\_\_\_\_ .M.  
on \_\_\_\_\_ at \_\_\_\_\_ .M.  
on \_\_\_\_\_ at \_\_\_\_\_ .M.

DESCRIPTION OF  
AREA

MAILING USE  
WITH 3 OR 4

☒

Deponent also enclosed a copy of same in a post paid sealed wrapper properly addressed to defendant at defendants last known residence, at 327 Beach 19th Street, Far Rockaway, NY 11691 04-18-14 and deposited said wrapper in - a post office - official depository under exclusive care and custody of

the United States Postal Service within New York State.

DESCRIPTION  
USE WITH  
1, 2, OR 3

Deponent describes the individual served as follows:

<input type="checkbox"/> Male	<input type="checkbox"/> White Skin	<input type="checkbox"/> Black Hair	<input type="checkbox"/> White Hair	<input type="checkbox"/> 14-20 Yrs.	<input type="checkbox"/> Under 5'	<input type="checkbox"/> Under 100 Lbs.
<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Black Skin	<input checked="" type="checkbox"/> Brown Hair	<input type="checkbox"/> Balding	<input type="checkbox"/> 21-35 Yrs.	<input type="checkbox"/> 5'0"-5'3"	<input type="checkbox"/> 100-130 Lbs.
<input type="checkbox"/> Glasses	<input type="checkbox"/> Oriental	<input type="checkbox"/> Blond Hair	<input type="checkbox"/> Mustache	<input type="checkbox"/> 36-50 Yrs.	<input type="checkbox"/> 5'4"-5'7"	<input checked="" type="checkbox"/> 131-160 Lbs.
	<input type="checkbox"/> Spanish	<input type="checkbox"/> Gray Hair	<input type="checkbox"/> Beard	<input type="checkbox"/> 51-65 Yrs.	<input checked="" type="checkbox"/> 5'9"-6'0"	<input type="checkbox"/> 161-200 Lbs.
		<input type="checkbox"/> Red Hair		<input type="checkbox"/> Over 65 Yrs.	<input type="checkbox"/> Over 6'	<input type="checkbox"/> Over 200 Lbs.

Other identifying features:

L & T ONLY

☐

In response to my question, he told me that no Tennant of said premises was in military service; and, further, that he knew that no occupant of said premises was a dependent of a person in military service.

USE IN  
NYC CIVIL CT. The language required by NYCRR 2900.2 (e), (f) & (h) was set forth on the face of said summons (es).

☐

MILITARY  
SERVICE

☐

I asked the person spoken to whether defendant was an active military service of the United States or of The State of New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated.

☐

Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in except the state or in the federal statutes.

Sworn to before me on  
April 18, 2014

*[Signature]*

BRUCE G. BEHPINS  
Notary Public, State of New York  
No. 02EE306800  
Qualified in Richmond County  
Term Expires January 4, 2014

*[Signature]*  
Print name beneath signature

Arthur J. Cappabianca  
License No. 0943927



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS**

-----X  
VICKY WASHINGTON,

Plaintiff,

- against -

**VERIFIED  
COMPLAINT**

Index # 5315/14

LUTHERAN MEDICAL CENTER;  
NEW YORK METHODIST HOSPITAL;  
LUTHERAN FAMILY HEALTH CENTERS;  
DONALD MORRISH, M.D.; AND  
JOHN DOE AND/OR MARY ROE #1-12,

Defendants.  
-----X

The plaintiff, by her attorneys, The Behrins Law Firm, PLLC, complaining of the defendants, respectfully shows as follows:

**FOR A FIRST CAUSE OF ACTION:**

1. At all times hereinafter mentioned the plaintiff, VICKY WASHINGTON (hereinafter referred to as "the plaintiff") was a resident of 56 North Oxford Walk, Apartment 1G, Brooklyn, NY 11205, in the Borough of Brooklyn, County of Kings, State of New York.

2. At all times hereinafter mentioned the defendant, LUTHERAN MEDICAL CENTER was and is a corporation organized and existing under and pursuant to the laws of the State of New York, and having a place of business at 150 55<sup>th</sup> Street, in the Borough of Brooklyn, County of Kings, State of New York.

3. At all times hereinafter mentioned, defendant NEW YORK METHODIST HOSPITAL was and is a corporation organized and existing under and pursuant to the laws of the State of New York, and having a place of business at 506 6<sup>th</sup> Street, in the Borough of Brooklyn, County of Kings, State of New York.

4. At all times hereinafter mentioned, defendant LUTHERAN FAMILY HEALTH CENTERS was and is a corporation organized and existing under and pursuant to the laws of the State of New York, and having a place of business at 9000 Shore Road, Brooklyn, New York 11209.

5. At all times hereinafter mentioned, the defendant DONALD MORRISH, M.D., (hereinafter referred to as "MORRISH") was and is a medical doctor with a business address at the defendant LUTHERAN MEDICAL CENTER'S place of business at 150 55<sup>th</sup> Street, in the Borough of Brooklyn, County of Kings, State of New York.

6. Upon information and belief, at all times hereinafter mentioned, the defendant MORRISH was a physician and surgeon duly licensed to practice as such in the State of New York.

7. At all times hereinafter mentioned, the defendants "JOHN DOE" (hereinafter referred to as "DOE") and "MARY ROE" (hereinafter referred to as "ROE") and others were either medical doctors, physicians' assistants, nurses and/or other health care professionals whose identities are unknown at the present time, but who may have assisted the defendants LUTHERAN MEDICAL CENTER and/or MORRISH on or about September 23, 2011 when the defendant

MORRISH performed a hysterectomy surgery upon the plaintiff, and/or between October 5, 2011 and October 13, 2011 when the plaintiff was again admitted as an inpatient at the defendant LUTHERAN MEDICAL CENTER'S place of business, for severe pain following the September 23<sup>rd</sup> operative procedure.

8. At all times hereinafter mentioned the defendants DOE, ROE and/or others had a business address at the defendant LUTHERAN MEDICAL CENTER'S place of business at 150 55<sup>th</sup> Street, in the Borough of Brooklyn, County of New York, State of New York.

9. At all times hereinafter mentioned the defendant LUTHERAN MEDICAL CENTER operated and maintained hospital facilities for the medical examination and treatment of patients, specializing in the examination and treatment of patients suffering from medical ailments including, but not limited to, a large fibroid uterus requiring abdominal hysterectomy surgery.

10. At all times hereinafter mentioned, the defendant MORRISH and the other individual defendants were employed by and/or were the agents or representatives or servants of the defendant LUTHERAN MEDICAL CENTER, and held themselves out as specialists in the examination and treatment of patients suffering from medical ailments including, but not limited to, a large fibroid uterus requiring abdominal hysterectomy surgery.

11. At all times hereinafter mentioned all of the individual defendants were duly licensed by the State of New York to practice as physicians or as physician assistants or as nurses.

12. At all times hereinafter mentioned the defendant MORRISH claimed to be a specialist and to have expertise as a surgeon operating on patients suffering from medical ailments including, but not limited to, a large fibroid uterus requiring abdominal hysterectomy surgery.

13. At all times hereinafter mentioned the defendant MORRISH and the other individual defendants rendered medical services to patients of the defendant LUTHERAN MEDICAL CENTER'S hospital, and in particular to the plaintiff, pursuant to employment and/or other agreements with the defendant LUTHERAN MEDICAL CENTER, rendering the defendant LUTHERAN MEDICAL CENTER vicariously liable for the acts of omission and/or commission of the individual defendants.

14. Between September 23, 2011 and September 26, 2011, and between October 5, 2011 and October 13, 2011, the plaintiff was a patient under the professional care of the individual defendants and the defendant LUTHERAN MEDICAL CENTER.

15. Between September 23, 2011 and September 26, 2011, and between October 5, 2011 and October 13, 2011, and for some time thereafter, the defendants for a good and valuable consideration undertook and endeavored to, and did, advise and treat the plaintiff professionally.

16. On or about September 23, 2011 while the defendant MORRISH (and possibly others) was performing an abdominal hysterectomy surgical operation on the plaintiff, the plaintiff suffered a ligation of her left ureter, an injury to her left ureter and an injury to her bladder, among other injuries.

17. Between September 23, 2011 and September 26, 2011, and between October 5, 2011 and October 13, 2011, the plaintiff engaged the defendant LUTHERAN MEDICAL CENTER as a hospital facility, and its physicians and other health care professionals to diagnose, treat, and cure the plaintiff's medical ailments including, but not limited to, a large fibroid uterus requiring abdominal hysterectomy surgery, and the defendants undertook to attend and treat and care for the plaintiff and to use due reasonable and proper skill and care in the plaintiff's treatment.

18. The defendants failed to exercise reasonable care and were negligent in performing the abdominal hysterectomy surgery on the plaintiff, ligating her left ureter, and otherwise injuring her left ureter and bladder.

19. The surgical operation and procedures and the advice and treatment were given and rendered in an improper, negligent and careless manner in that one or more of the defendants failed to employ the skill, care and diligence commonly and ordinarily possessed by, and required of, physicians and surgeons in the locality where the defendants practice; in that they failed to properly advise and instruct the plaintiff concerning post-operative care and procedure; in that they failed to properly diagnose, treat and prescribe for the condition from which the plaintiff was suffering between September 23, 2011 and September 26, 2011, and between October 5, 2011 and October 13, 2011, and thereafter; and the defendants were otherwise careless and negligent in the circumstances by failing to employ reasonable and proper steps, procedures and practices for the health, welfare and safety of the plaintiff and to avoid injury to her.

20. The aforesaid occurrence was caused solely by reason of the negligence of the aforementioned defendants, and without any fault or negligence on the part of the plaintiff.

21. By reason of the foregoing, the plaintiff was rendered sick, sore, lame and disabled and upon information and belief, her injuries were of a permanent nature and character; and the plaintiff was compelled to remain away from her usual duties and vocation, and was compelled to incur divers obligations and in the future will be further compelled to incur divers obligations in an effort to heal and cure herself of her injuries, all to her great damage.

22. That this action and the following actions fall within one or more of the exceptions set forth in CPLR Article 16, if applicable.

23. By reason of the foregoing, the plaintiffs have been damaged in an amount exceeding the jurisdictional limits of all lower courts which might otherwise have jurisdiction.

**FOR A SECOND CAUSE OF ACTION:**

24. The plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if set forth at length herein.

25. The defendants failed to inform the plaintiff of the risks, hazards and alternatives of the procedures utilized and the treatments rendered so that an informed consent could have been given.

26. Reasonably prudent persons in the position of the plaintiff would not have undergone the procedures utilized and the treatments rendered if the plaintiff had been fully informed of the risks, hazards, and alternatives attendant thereto.

27. The failure to inform the plaintiff accordingly was and is a proximate cause of her injuries.

28. No informed consent was given by the plaintiff.

29. By reason of the foregoing, the plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which might otherwise have jurisdiction.

WHEREFORE, the plaintiffs demand judgment pursuant to CPLR 3017 for money damages against the defendants in the First and Second Causes of Action in amounts to be determined at trial but which exceed the jurisdictional limits of all lower courts which might otherwise have jurisdiction, together with interest, costs and disbursements.

Dated: Staten Island, New York  
August 13, 2014

THE BEHRINS LAW FIRM PLLC  
Attorneys for Plaintiff  
Office & P.O. Address  
1110 South Avenue (Suite 402)  
Staten Island, New York 10314  
(718) 447-5540

To: **DOPF, P.C.**  
**Attorneys for Defendant(s)**  
**Office & P.O. Address**  
**440 Ninth Avenue (16<sup>th</sup> Floor)**  
**New York, New York 10001**  
**(212) 244-9090**



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS**

-----X  
**VICKY WASHINGTON,**

**Plaintiff,**

**- against -**

**VERIFICATION**

**INDEX #: 5315/14**

**LUTHERAN MEDICAL CENTER;  
NEW YORK METHODIST HOSPITAL;  
LUTHERAN FAMILY HEALTH CENTERS;  
DONALD MORRISH, M.D.; AND  
JOHN DOE AND/OR MARY ROE #1-12,**

**Defendants.**  
-----X


**STATE OF NEW YORK            )  
  .ss:  
COUNTY OF RICHMOND        )**

**Vicky Washington, being duly sworn, deposes and says:**

- 1.     I am the plaintiff in this action.**
- 2.     I have read the foregoing complaint and know the contents thereof.**
- 3.     The same is true to my own knowledge, except as to the matters therein  
stated to be alleged on information and belief, and as to those matters I believe it/them  
to be true.**

**Sworn to before me this  
13<sup>th</sup> day of August, 2014.**

\_\_\_\_\_  
**Notary Public**

  
\_\_\_\_\_  
**Vicky Washington**

**BRUCE G. BEHRINS**  
**Notary Public, State of New York**  
**No. 02BE5006600**  
**Qualified in Richmond County**  
**Term Expires January 4, 2015**

## EXHIBIT B

-1-

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

Vicky Washington,

Plaintiff,

Lutheran Medical Center;  
New York Methodist Hospital;  
Lutheran Family Health Centers;  
Donald Morrish, M.D.; and  
John Doe and/or Mary Roe #1-12

Defendants.

Case No. \_\_\_\_\_

DECLARATION OF  
MEREDITH TORRES

1. I am a Senior Attorney in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the "Department"). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Branch that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

3. As a consequence, if a tort claim had been filed with the Department with respect to Sunset Park Health Council Inc., f/k/a Lutheran Family Health Centers, its approved delivery sites,

-2-

or its employees or qualified contractors, a record of that filing would be maintained in the Claims Branch's database.

4. I caused a search of the Claims Branch's database to be conducted and found no record of an administrative tort claim filed by Vicky Washington, or an authorized representative relating to Sunset Park Health Council Inc., f/k/a Lutheran Family Health Centers and/or Donald Morrish, M.D.

5. I have also reviewed official agency records and determined that Sunset Park Health Council Inc., f/k/a Lutheran Family Health Centers was deemed eligible for Federal Tort Claims Act malpractice coverage effective January 1, 2011, and that its coverage has continued without interruption since that time. The Secretary of Health and Human Services' authority to deem entities as Public Health Service employees under 42 U.S.C. § 233(g) has been delegated to the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration. Copies of the notifications by the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration, Department of Health and Human Services, to Sunset Park Health Council Inc., f/k/a Lutheran Family Health Centers are attached to this declaration as Exhibit 1.

6. Official agency records further indicate that Donald Morrish, M.D., was an employee of Sunset Park Health Council Inc., f/k/a Lutheran Family Health Centers at all times relevant to the complaint in this case.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

Dated at Washington, D.C., this 30<sup>th</sup> day of October, 2014.

  
MEREDITH TORRES

-3-

Senior Attorney, Claims and Employment Law Branch  
General Law Division  
Office of the General Counsel  
Department of Health and Human Services

**EXHIBIT C**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- x  
VICKY WASHINGTON,

Plaintiff,

v.

LUTHERAN MEDICAL CENTER; NEW YORK  
METHODIST HOSPITAL; LUTHERAN FAMILY  
HEALTH CENTERS; DONALD MORRISH, M.D.;  
AND JOHN DOE AND/OR MARY ROE #1-12;

Defendants.  
----- x

Civil Action No.

\_\_\_\_\_  
(\_\_\_\_\_, J.)  
(\_\_\_\_\_, M.J.)


**CERTIFICATION OF SCOPE OF EMPLOYMENT AND  
NOTICE OF SUBSTITUTION OF UNITED STATES AS  
PARTY DEFENDANT FOR DONALD MORRISH, M.D.**

By virtue of the authority vested in this Office by the Attorney General under 28 C.F.R. § 15.4, it is hereby certified on the basis of the information now available with respect to the incident alleged in the Verified Complaint, that defendant Donald Morrish, M.D. ("Morrish"), was acting within the scope and course of his federal employment as an employee of Sunset Park Health Council, Inc., formerly known as, Lutheran Family Health Centers ("health centers"), a grantee of the U.S. Department of Health and Human Services, at the time of the incident over which the above-referenced action arose. Accordingly, pursuant to 42 U.S.C. § 233(a), (c), (g) and 28 U.S.C. 2679(d)(2), the United States of America is hereby substituted by operation of law as a party defendant for defendant Morrish, and any and all claims asserted in the Verified Complaint against defendant Morrish, shall be, and hereby are,

deemed to be claims for relief against the United States of America.

Dated: Brooklyn, New York  
November 19, 2014

LORETTA E. LYNCH  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201

By:   
DARA A. OLDS  
Assistant U.S. Attorney  
(718) 254-6148  
dara.olds@usdoj.gov

TO: Clerk of Court  
Supreme Court of the State of New York  
County of Kings  
360 Adams Street  
Brooklyn, NY 11201

THE BEHRENS LAW FIRM  
1110 South Avenue, Suite 402  
Staten Island, New York 10314  
*Attorneys for Plaintiffs*

Amy C. Lombardo, Esq., CHC  
DOPF, P.C.  
440 Ninth Avenue, 16<sup>th</sup> Floor  
New York, NY 10001